

CASE NO. 00-6023 CIV HURLEY

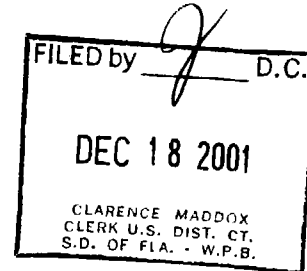
R/S ASSOCIATES, a Florida Limited
Partnership and DAN SHOOSTER,

Plaintiffs,

vs.

ROBERT YARI and FORUM ARLINGTON
PROPERTIES, LTD. AND ALLIANCE
COMMERCIAL MANAGEMENT,

Defendants.



CONSENT FINAL JUDGMENT AND PERMANENT INJUNCTION

Plaintiffs, R/S Associates, a Florida Limited Partnership and Dan Shooster (collectively "Plaintiffs") and Defendants, Robert Yari and Forum Arlington Properties, Ltd., (collectively "Defendants"), stipulate and consent to the following:

WHEREAS, Defendants adopted and began using trademarks in the United States which allegedly infringe Plaintiffs' registered trademarks: Festival Marketplace Mall 3101; Festival Marketplace Mall/Logo" #3102; Winners! Arcade/Design #3103; Winners! Arcade/Design #3121; Festival Marketplace #3104; Festival Marketplace #3105; Shopaholic #3112; Festiventures #3120; Festiventures #3112; Fesitvaluc #3111; Festivaluc #3119; Fleabytes #3110; Fleabytes #3118; Flea Market Mall #3117; Flea Market Mall #3108; Festival Flea Market/Design #3107; Festival Flea Market/Design #3115; Flea T.V. #3106; Flea T.V. #3114; Festival Marketplace/Design #3123; and/or International Festival Center trademark ("The Plaintiffs' Marks");

one or more of the Plaintiffs' Marks might cause confusion as to source or origin; and

WHEREAS, based upon Plaintiffs' good faith prior use of the Plaintiffs' Marks, Plaintiffs have superior and exclusive rights in and to the Plaintiffs' Marks in the United States and any confusingly similar names or marks;

WHEREAS, Defendants do not admit liability or wrongdoing as to Plaintiffs' claims, but have settled this matter for reasons of judicial economy.

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. That Defendants, their agents, representatives, servants, employees, and all those acting in concert or participation therewith are hereby permanently enjoined, from utilizing any of Plaintiffs' Marks; from infringing, counterfeiting, or unlawfully diluting the Plaintiffs' Marks; from using the Plaintiffs' Marks, or any marks similar thereto, in connection with any shopping centers or malls; from unlawfully using any logo, trade name or trademark which may be calculated to falsely advertise the services or products of Defendants as being sponsored by, authorized by, endorsed by, or in anyway associated with Plaintiffs, provided however, that Defendants may use the present "Festival Marketplace" sign, located at the entrance of the Festival Discount Mall in Arlington, Texas, without the Plaintiffs' claiming that its use infringes on Plaintiff's rights.

2. Any party shall have the right to seek sanctions for contempt, compensatory damages, injunctive relief, attorneys' fees, costs, and such other relief deemed proper in the event of a violation or failure to comply with any of the provisions hereof. The prevailing party in any such proceeding shall be entitled to recover its attorneys' fees and costs.

3. This cause between Plaintiffs and Defendants is hereby dismissed with prejudice, subject to the terms of the Settlement Agreement between the parties. This Consent Judgment shall be conclusive for purposes of collateral estoppel.

4. The parties' respective attorney's fees and costs incurred in connection with this action shall be borne as per the agreement of the individual parties in their Settlement Agreement.

5. Defendants have already paid Plaintiffs the sum of Fifty Thousand Dollars (\$50,000.00).

6. Defendants shall pay Plaintiffs Thirty-Two Thousand Five Hundred Dollars (\$32,500.00) on June 1, 2002. The failure to make this payment in accordance with the Court's final judgment shall be deemed a contempt of court.

7. This court will retain jurisdiction over this cause to enforce the terms of this Consent Judgment and the Settlement Agreement between the parties.

DONE AND ORDERED in Chambers in West Palm Beach, Palm Beach County, Florida this 18 day of Jan., 2001.


U.S. DISTRICT COURT JUDGE

copies to:

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